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In re Application of :
Carbone et al. :
Application Number: 09/582297 : ON PETITION
Filing Date: 04/08/2002 :
Attorney Docket Number: 06975- :
029006 :

This is a decision on the renewed petition filed on April 18, 2008, to withdraw the holding of abandonment.

This application became abandoned on May 2, 2006, for failure to timely file a reply to the non-final Office action mailed on February 1, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on October 6, 2006. The petition to withdraw the holding of abandonment filed on January 2, 2008, was dismissed on February 19, 2008.

In the present renewed petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on February 1, 2006.

Petitioners aver that a change of correspondence address was filed on February 12, 2003. Specifically, petitioner's counsel filed a request with the USPTO's Electronic Business Center (EBC) asking for this application, and other applications prosecuted by the attorneys of Fish & Richardson, to be associated with Fish & Richardson's Customer Number, 26171. A copy of the request has been provided, and fax confirmation from the EBC, dated February 23, 2003, has been provided, requesting petitioners' counsel verify the applications to be associated with Customer Number 26171. Petitioners assert that despite the filing of the

request to change the correspondence address by associating the subject application with Customer Number 26171, the application was not associated with the Customer Number due to Office error. Consequently, assert petitioners, the Office action mailed on February 1, 2006, was mailed to an old address and was not received.

A review of Office Image File Wrapper data indicates that the Customer Number information was updated on February 26, 2003, for the applications listed immediately above and below the subject application on the confirmation letter from the EBC, although the subject application was not associated with the Customer Number. As such, the showing of record is that the request to associate the above identified application with Customer Number 26171 was received on February 12, 2003, but that the correspondence address was not associated with the Customer Number as a result of Office error.

Accordingly, the Office action mailed on February 1, 2006, was never received because the Office action was mailed to an old address, on account of Office error.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The subject application has been associated with Customer Number 26171.

The petition is **GRANTED**.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application file is being referred to Technology Center Art Unit 2157 technical support staff for remailing of the non-final Office action mailed on February 1, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

A handwritten signature in black ink, appearing to read "D Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc

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